

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

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DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

ROBERT TWYMNA, JR.,
PLAINTIFF,
VS.
TROY KING,
DEFENDANT.

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CASE NO. 2:05_CV_1085_T

MOTION TO ALTER OR AMEND JUDGMENT

NOW COMES, PLAINTIFF ROBERT TWYMAN, JR., PRO-SE, PURSUANT TO FED.R.CIV.P., RULE 59(e), MOVES THIS COURT TO ALTER OR AMEND IT'S JUDGMENT, CAUSE OF THE FOLLOWING FACTS;

FACTS

1. IN THIS COURT'S OPINION IT STATED; "... PLAINTIFF, A STATE INMATE, FILED THIS LAWSUIT COMPLINING ABOUT A STATE STATUTE THAT ALLOWS FOR ISSUANCE OF FUGITIVE ARREST WARRANTS."

2. PLAINTIFF COMPLAINT, OBJECTION AND EXHIBIT "A" STATES THAT THE CODE OF ALABAMA §15-22-31(a) AUTHORIZES THE COMMISSIONER OF THE ALABAMA DEPARTMENT OF CORRECTIONS (ADOC), TO ISSUE FUGITIVE WARRANTS, WHICH VIOLATES THE CONSTITUTION RIGHTS OF THE PLAINTIFF.

3. THE COMMISSIONER OF THE ADOC IS A LAW ENFORCEMENT OFFICER. PERMITTING A LAW ENFORCEMENT OFFICER THEMSELVES TO ISSUE A FUGITIVE WARRANT VIOLTES THE FOURTH AND FOURTEENTH AMENDMENTS OF THE U.S. CONSTITUTION. SEE COOLIDGE V. NEW HAMPSHIRE, 403, US 443, 452 (1971).

4. FEDERAL CONSTITUTIONAL RIGHTS ARE BY NO MEANS PRECLUDED BY A STATE STATUTE AUTHORIZING A WARRANT BEING ISSUED BY A LAW ENFORCEMENT OFFICER.

5. THIS IGNOBLE SHORTCUT TO ARREST PAROLE VIOLATER LEFT OPEN TO THE STATE (DEFENDANT) TENDS TO DESTROY THE ENTIRE SYSTEM OF CONSTITUTIONAL RESTRAINTS ON WHICH THE LEBERTIES OF THE PEOPLE REST.

6. THE FOURTH AMENDMENT IS ENFORCEABLE AGAINST THE STATES, AND THAT THE RIGHT TO BE SECURE AGAINST RUDE INVASIONS OF LIFE AND LIBERTY BY STATE OFFICERS IS CONSTITUTIONAL IN ORIGIN. SEE MAPP V. OHIO, 367 US 643, 659 (1961); AND KER V. CALIFORNIA, 374 US 23, 34 (1963).

RELIEF SOUGHT

CAUSE U.S. DISTRICT JUDGE THOMPSON HAS TOUCHED UPON THE MERITS OF THIS COMPLAINT, PLAINTIFF RESPECTFULLY ASKS OF THIS COURT; TAKE NOTICE OF THE FUGITIVE WARRANT ISSUED BY THE COMMISSIONER OF THE ADOC (EXHIBIT "A"); THE CODE OF ALABAMA §15-~~22~~-31(a) COMPARE TO §15-7-4; AND HEADNOTE #2, IN COOLIDGE V. NEW HAMPSHIRE, SUPRA. THERE'S EVIDENCE THAT PLAINTIFF CONSTITUTION RIGHTS HAVE BEEN VIOLATED, AND THAT THE DEFENDANT HS FAILED TO PERFORM HIS DUTIES, ACCORDING TO THE CODE OF ALABAMA, §36-15-1(7), PLAINTIFF BE ALLOWED TO PROCEED WITH THIS CIVIL RIGHTS COMPLAINT.

CONCLUSION

WHEREFORE, PREMISES CONSIDERED, PLAINTIFF PRAYS THE HONORABLE JUDGE THOMPSON WILL RECONSIDER THE OPINION AND VACATE THE JUDGMENT OF DECEMBER 14, 2005, ALLOWING THIS COMPLAINT TO BE SERVED ON THE DEFENDANT.

IT IS SO PRAYED:

DONE THIS THE 22 DAY OF DECEMBER, 2005.

Robert Tugman, Jr.

CERTIFICATE OF SERVICE

I CERTIFY THAT I HAVE SERVED A TRUE AND CORRECT COPY OF THE FOREGOING ON THE DEFENDANT, BY PLACING THE SAME IN THE U.S. MAIL, FIRST CLASS, POSTAGE PREPAID AND ADDRESSED CORRECTLY.

Robert Tugman, Jr.

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